

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Joel Friedman

Plaintiff,

-v.-

Citibank, NA

Defendant.

Civil Action No: _____

COMPLAINT

Plaintiff Joel Friedman ("Plaintiff" or "Friedman") by and through his attorneys, RC Law Group, PLLC, as and for its Complaint against Defendant Citibank, NA ("Defendant") respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from Defendant's violations of Section 227 *et.seq.* of Title 47 of the United States Code, commonly referred to as the Telephone Consumer Protection Act ("TCPA").

PARTIES

2. Plaintiff is a resident of the State of New York, County of Rockland, residing at 45 Besen Parkway, Airmont, NY, 10952 and is a "person" as the term is defined by 47 U.S.C. § 153(39).

3. Defendant Citibank, NA, is a New York business entity with an address of 399 Park Avenue, New York, NY, 10043, and is a “person” as the term is defined by 47 U.S.C. § 153(39).

JURISDICTION AND VENUE

4. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as well as 15 U.S.C. § 1692 et. seq. and 28 U.S.C. § 2201. If applicable, the Court also has pendant jurisdiction over the State law claims in this action pursuant to 28 U.S.C. § 1367(a).

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

6. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully state herein with the same force and effect as if the same were set forth at length herein.

7. On information and belief, on a date better known to Defendant, Defendant began calling Plaintiff’s cellular telephone, using an automatic telephone dialing system (“ATDS” or “predictive dialer”) and/or using an artificial or prerecorded voice.

8. Defendant placed a large amount of calls to Plaintiff’s cell phone in the manner described previously.

9. Plaintiff spoke with Defendant multiple times in June 2016 and revoked any consent that Defendant may have had to contact him on his cellular telephone.

10. Once Defendant was aware that its calls were unwanted, its continued calls could have served no purpose other than harassment.

11. Defendant ignored Plaintiff's revocation and continued to call his cellular telephone number multiple times each day.

12. These calls from Defendant to Plaintiff was a collection communications in violation of numerous and multiple provisions of the TCPA, including but not limited to 47 U.S.C. § 227 (b)(1)(A) and 47 U.S.C. § 227(c)(5)(B).

13. As a result of Defendant's unfair practices, Plaintiff has been damaged.

FIRST CAUSE OF ACTION
(VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT)

14. Plaintiff repeats, reiterates and incorporates the allegations contained in all of the paragraphs of this Complaint with the same force and effect as if the same were set forth at length herein..

15. The TCPA prohibits a person from making any non-emergency call using any automatic telephone dialing system or an artificial or prerecorded voice to any telephone phone number assigned to a cellular telephone service. 47 U.S.C. § 227 (b), See 47 CFR 64.1200 (a)(1).

16. Defendant used an automatic telephone dialing system when it called Plaintiff's cellular telephone in violation of 47 U.S.C. § 227 (b)(1)(A), 47 CFR 64.1200 (a)(1).

17. Defendant used an artificial or prerecorded voice when it called Plaintiff's cellular telephone in violation of 47 U.S.C. § 227 (b)(1)(A).

18. Defendant willfully or knowingly violated the TCPA, 47 U.S.C. § 227, entitling Plaintiff to three times the damages available under 47 U.S.C. § 227(c)(5)(B).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Joel Friedman demands judgment from the Defendant Citibank, NA as follows:

- a) For a declaration that Defendant's telephone calls to Plaintiff violated the TCPA;
- f) For an award of damages of \$500 for each violation determined to be negligent consistent with the TCPA, 47 U.S.C. § 227(b)(3)(B)
- g) For an award of triple the damages for violation determined to be willful and/or knowing violations pursuant to 47 U.S.C. § 227(b)(3)(C)
- h) For any such other and further relief, as well as further costs, expenses and disbursements of this action as this Court may deem just and proper.

Dated: Hackensack, New Jersey
September 29, 2016

/s/ Daniel Kohn
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